

**Board for Professional Engineers and Land Surveyors
Board Meeting Minutes
January 26,2007**

**Embassy Suites Monterey Bay/Seaside Hotel
1441 Canyon Del Rey
Seaside, California 93955
(831) 393-1115**

Friday, January 26, 2007, beginning at 10:00 a.m.

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Board Members Present: Arthur Duffy, President; Gregg Brandow; James Foley; Robert Jones; Rick Lyons; Patrick Tami; and Cindy Tuttle.

Board Members Absent: Mike Modugno, Millicent Safran, and Edward Yu

Board Staff Present: Cindi Christenson (Executive Officer), Cindy Fernandez (Executive Analyst), Gary Duke (Legal Counsel), Debbie Thompson (Budget Analyst), and Nancy Eissler (Enforcement Program Manager),

Public Present: See Attached

1. Roll Call to Establish a Quorum

The meeting was called to order by President Duffy at 10:05 a.m. Roll call was taken, and there was a quorum.

2. Public Comment

Mr. Pierce stated that he was on a "Personal Mission" to talk about the need for Agricultural Engineers to be a Practice Act. He also provided the Board with a handout.

Mr. Foley told Mr. Pierce that it is up to the Legislature to determine that and not up to the Board.

3. Approval of Delinquent Reinstatements (Possible Action)

MOTION: Ms. Tuttle/Mr. Lyons moved to approve the Delinquent Reinstatements as follows:

CHEMICAL

Clyde Wong

Reinstate applicant's chemical license once he takes and passes the Board's Laws and Regulations Examination and pays all delinquent and renewal fees.

CIVIL

Jimmy Litzel

Reinstate applicant's civil license once he takes and passes the Board's Laws and Regulations Examination and pays all delinquent and renewal fees.

Mehrdad Karimi

Reinstate applicant's civil license once he takes and passes the Board's Laws and Regulations Examination and pays all delinquent and renewal fees.

ELECTRICAL

George Grosso

Reinstate applicant's electrical license once he takes and passes the Board's Laws and Regulations Examination.

Mariam Mirzadeh

Reinstate applicant's electrical license once he takes and passes the Board's Laws and Regulations Examination and pays all delinquent and renewal fees.

Ronald Waites

Reinstate applicant's electrical license once he takes and passes the Board's Laws and Regulations Examination and pays all delinquent and renewal fees.

FIRE PROTECTION

Michael Badley

Reinstate applicant's fire protection license once he takes and passes the Board's Laws and Regulations Examination and pays all delinquent and renewal fees.

LAND SURVEYOR

John R. McDonald

Reinstate applicant's Land Surveyor license once he takes and passes the Board's Laws and Regulations Examination and pays all delinquent and renewal fees.

MECHANICAL

Roozbeh Mahdavi

Reinstate applicant's mechanical license once he takes and passes the Board's Laws and Regulations Examination and pays all delinquent and renewal fees.

Robert Seibert

Reinstate applicant's mechanical license once he takes and passes the Board's Laws and Regulations Examination.

VOTE: 7-0, motion carried.

4. Comity and Temporary Authorization Applications (Possible Action)

MOTION: Mr. Foley/Ms. Tuttle moved to approve the Amended Handout Comity List.

VOTE: 7-0, motion carried

10. Administration

a. Fund Condition

Ms. Thompson reported on changes included in the Board's fund condition dated January 10, 2006:

- The year-end application revenue projection for FY 2006-07 increased from \$3,582,000 to \$3,609,000.
- The year-end actual reimbursements for FY 2006-07 increased from \$20,695 to \$27,439.
- The year-end renewal revenue projection for FY 2005-06 increased from \$4,658,000 to 5,397,000.
- The total year-end revenue received by the Board through November 30, 2006, was \$5,248,189 which is \$470,230 more than the prior FY 2005-06 year-end total received.
- The licensing project expenditures are now included in the Board's FY 2007-08 budgeted expenditure as well as the Board's FY 2007-08 BCPs.

From FY 2006-07 and out to FY 2010-1011, Ms. Thompson reported the Board projects to maintain an average of 4.5 months in fund reserves.

b. Fiscal Year 2006-07 Budget

Ms. Thompson reported that of the \$8,297,839 budget allocation for FY 2006-07, Board staff projected a \$8,213,707 expenditure which will leave a \$146,957 year-end balance. The Board's budget allotment for this FY was recently increased by \$212,000 for employee general salary and retirement increases.

c. Fiscal Year 2007-08 Budget Change Proposals

Ms. Thompson reported that BCPs for the SME Hourly Rate Increase and Reporting of Legal Actions were both reviewed by Department of Finance and will be scheduled for the spring Legislative hearings.

d. Land Surveyor Contract Renewal

Ms. Thompson reported that the new contract was awarded to Mr. Ric Moore and was approved for the contract term from January 2, 2007, to March 31, 2009.

e. Land Surveyor Position for FY 2008-09

Ms. Thompson reported that the Land Surveyor Position Concept Paper is still under review by DCA and they have indicated it will be submitted to the Department of Personnel Administration within the next month.

f. Publications Review

Ms. Eissler reported that the Enforcement Bulletin has been delayed and will be sent out likely in January of 2007. Currently, no staff is available to finalize the Bulletin because the temporary staff person assigned to the Bulletin reached the maximum amount of hours she could work for the year.

President Duffy suggested Board members review the Bulletin. Ms. Eissler indicated Mr. Duke has final say on the disciplinary summaries included in the Bulletin for legal reasons, so there would be no need for the Board members to review those; however, the general articles could be reviewed by Board members. Ms. Eissler also explained that the general articles have to be approved by DCA prior to printing.

President Duffy appointed Dr. Brandow and Mr. Tami to review the general Bulletin articles prior to final DCA review and printing.

g. Applicant Direct Payment of National Exam Fees to NCEES

SB 1476 (Ch. 658, 2006) gives the Board the authority to contract with an outside vendor for the direct collection of national exam fees and allows to Board to contract with a vendor to administer any of the Board's exams. This change will require the Board to amend Board Rule 407 to change the fee structure. Additionally, a BCP would be required to reduce the Board's budget by the NCEES budget amount now needed to pay for NCEES booklets and grading fees.

President Duffy questioned how the new regulatory language would be affected when NCEES increases their fees. Ms. Thompson answered that Board Rule 407 language would clearly state that national exam applicants pay the current NCEES required national exam fees without stating the amount. Payment of the correct NCEES fee would become the

responsibility of the applicant. The Board will need to specify the appropriate fees for application processing, exam administration and the state-specific exams. Once these fees are determined, the proposed regulatory language change can be brought to the Board for approval. Mr. Richard Lyons requested Board staff bring back information regarding the fees required by other states.

MOTION: Mr. Tami / Dr. Brandow moved to have Board staff develop proposed exam fee schedules for the March Board meeting pursuant to Chapter 658, Stats.2006, that allows the Board to authorize an NCEES to receive and process applicant payments for national exams.

VOTE: 7-0, motion carried.

5. Reporting of Examination Scores on Appeal (Possible Action)

Ms. Christenson gave a brief background history on information contained in the agenda for this item. She also stated that she forgot to include sample letters that are sent to the candidates, but that she will mail them to the Board members after the meeting.

MOTION: Mr. Lyons/Ms. Tuttle moved to keep the Appeal grading process and reporting the same.

VOTE: 6-0-1, motion carried, Mr. Jones abstained.

6. Consideration of the Release of Problems from Prior Structural Engineering Examinations (Possible Action)

Ms. Christenson reported that SEAOC has concerns with not having good study materials for the candidates. SEACO is requesting that the Board provide sample questions from prior state specific examinations. Ms. Christenson advised that the Examination Development Unit recommended releasing some problems from past examination that was compromised.

Mr. Tami suggested looking into doing this on a regular basis for all examination disciplines.

MOTION: Ms. Tuttle/Mr. Foley directed staff to look into doing the same thing for all disciplines and to release prior questions from past Structural examinations and make more relevant to current examinations.

VOTE: 7-0, motion carried.

7. Approval and Adoption of Regulations Regarding 5-years Credit for a Board Approved Masters Degree (Board Rules 404, 424, and 460) (Possible Action)

Ms. Christenson reported that the Board submitted these Regulations to the Office of Administrative Law (OAL) for adoption in 2005. OAL opined that the Board lacked the statutory authority to adopt the regulations. The Board submitted language to the legislature that would provide it the authority to do so and the language became effective January 1, 2007.

MOTION: Ms. Tuttle/Mr. Lyons moved to approve the changes to Board Rules 404, 424, and 460 and to commence with the regulatory process and to also incorporate any corrections.

VOTE: 7-0, motion carried.

8. 2007 NCEES Board Presidents Assembly (Possible Action)

a. Discussion of NCEES Position on Recognition of Foreign Degrees

Mr. Tami, Dr. Brandow, and Ms. Christenson will represent the Board at this meeting.

b. Discussion of NCEES Entering into Unilateral Agreements with Foreign Licensing Bodies on Behalf of Member Boards

Dr. Brandow stated that foreign countries want to give our examinations.

Mr. Foley feels that if other foreign countries want to use our examinations as a standard, why not.

Japan and Canada are currently doing this.

9. Request for Central Valley Exam Site

Ms. Christenson reported that a letter from the Professional Engineers in California Government was received which requested that the Board consider providing examinations at a site in the Central Valley. In the past, the Board offered the examination in Paso Robles, Fresno, and Visalia. The Board discontinued offering the examination at this site as a cost saving measure and the limited availability of proctors in the area. Staff believes that we could return to offering the examination at this site again. Variables will be acquiring the site and contacting proctors in the area to determine whether sufficient resources are in the area. Depending on site availability, the earliest date that the examination could be offered in this area would be in April 2008. Based on prior statistics, the site accommodated up to 650 candidates.

Ms. Christenson stated that the biggest problem will be getting proctors in the area. PECG and CELSOC may be interested in helping out with the proctor issues.

President Duffy directed staff to move forward with this.

11. Enforcement

Ms. Eissler reported that the two new Enforcement Analysts are doing very well at learning the process and getting up to speed; they have both been working full-time in the Enforcement Unit since November. Ms. Eissler also reported that, not counting the examination subversion cases, the Unit is closing more cases than have been opened this fiscal year.

12. Legislative

a. Discussion of Proposed Legislation for 2007 (Possible Action)

Ms. Eissler summarized the non-substantive, clean-up legislation to provisions of the Professional Engineers Act and the Professional Land Surveyors' Act that staff proposes the Board pursue this legislative cycle, as follows:

Section 6712 should be amended to indicate that the Board members representing the state or local agency could also include the Professional Land Surveyor member as well as the Professional Engineer members.

Section 6738(i) needs to be amended to correct a typographical error.

Sections 6770, 6770.6, 8776, and 8776.7 need to be amended to update the operative date and fiscal year date for the Reporting of Legal Actions program.

Sections 6775.1 and 8780.1 need to be amended to include reference to all grounds for denial of a license listed in Business and Professions Code section 480.

Section 6799 needs to be amended to correctly refer to the temporary authorization as an "authorization," not a "registration."

Section 8712 needs to be amended to match the language in Section 6715 regarding the preparation of a roster of licensees.

Section 8805 needs to be amended to remove reference to temporary authorizations for land surveyors.

Ms. Eissler explained that staff will be working with legislative staff to have these included in a bill this session. Once the language is released in bill form, it will be presented to the Board for review. The Board directed staff to pursue this legislation.

- b. Regulation Status Report**
No report given.
- 13. Technical Advisory Committee Reports**
(No Committee Meetings were held.)
 - a. Board Assignments to TACs (Possible Action)**
Mr. Tami reported that the LSTAC will be meeting on February 24, 2007.

The other TACs will also be looking into holding meetings in the near future.
 - b. Appointment of TAC Members (Possible Action)**
No appointments were made.
- 14. Liaison Reports (Possible Action)**
 - a. ABET**
No report was given.
 - b. NCEES**
Dr. Brandow reported that the SE Task Force met last week in Texas to look at all the SE Examinations and are looking into coming up with a single examination to satisfy everyone.
 - c. Technical and Professional Societies**
No report was given.
- 15. President's Report**
No report was given.
- 16. Executive Officer's Report**
 - 1. Administration Report**
 - a. Executive summary report**
No additional report given.
 - 2. Personnel**
 - a. New Hires**
Recruiting for a ME/EE Engineer, only received 3 applications.
 - b. Vacancies**
There is a vacancy for a Staff Engineer and Office Supervisor.
 - 3. Enforcement/Examination/Licensing**
 - a. College Outreach**
Joyce Hirano, Staff Civil Engineer, is being trained to do the College Outreach.

- b. **Report on Enforcement Activities**
No additional report given.
 - c. **Report on Examination Activities**
Ms. Christenson reported that we are getting ready for the April 2006 examinations.
 - 4. **Publications/Website**
 - a. **Website Activity Statistics**
No additional report given.
 - 5. **Other**
 - a. **DCA Update**
No update given
 - b. **COOP/COG Report**
Ms. Christenson reported that we are looking into statutory changes that may be necessary to continue operations in case of an emergency or disaster.
 - c. **iLicensing**
Ms. Christenson reported if brought on, will be able to accept credit cards for payment.
 - d. **Record Retention Project**
Mr. Duke is working with staff to provide a report for the next meeting.
- 17. **Approval of Board Travel (Possible Action)**
No Board travel.
- 18. **Other Items Not Requiring Board Action**
Date of Next Board Meeting: March 22 & 23, 2007, Sacramento, California.
Ms. Christenson will let the Board know if it is going to be a one-day or two-day meeting, but will probably be only one day.
- 19. **Closed Session – Personnel Matters, Examination Procedures and Results, Administrative Adjudication, and Pending Litigation (As Needed) [Pursuant to Government Code sections 11126(a) and (b), 11126(c)(1), 11126(c)(3), and 11126 (e)(1)]**
 - a. Michael William Foster v. Board for Professional Engineers and Land Surveyors, El Dorado Superior Court Case No. PC 20030492
 - b. Lawrence B. Karp v. Board for Professional Engineers and Land Surveyors, Court of Appeal First Appellate District, Division 3, Case No. A109241, (San Francisco Superior Court Case No. 402996)

20. Open Session to Announce the Results of Closed Session

Ms. Christenson reported that the Board discussed pending litigation as noticed, specifically; Michael William Foster v. Board for Professional Engineers and Land Surveyors, El Dorado Superior Court Case No. PC 20030492; Lawrence B. Karp v. Board for Professional Engineers and Land Surveyors, Court of Appeal First Appellate District, Division 3, Case No. A109241, (San Francisco Superior Court Case No. 402996); Michael Carlos Laroue v. Board for Professional Engineers and Land Surveyors, Los Angeles Superior Court Case No. BS 100633

Ms. Christenson reported that the Board adopted the results of the take-home examination for the candidates who had previously passed the 8-hour portion of the indicated examinations.

Ms. Christenson reported that the Board approved the successful and unsuccessful appeals of the April 2006 Professional Land Surveying Examination.

Ms. Christenson reported that the Board adopted the Stipulations regarding Daniel Patrick Haller, Jamshid James Kaviani, and Earl F. McKinney.

21. Approval of Consent Items (Possible Action)

(These items are before the Board for consent and will be approved with a single motion following the completion of Closed Session. Any item that a Board member wishes to discuss will be removed from the consent items and considered separately.)

- a. **Approval of the Minutes of the November 16, 2006, Board Meeting**
- b. **Approval of Candidates for Certification/Licensure (Based on Examination Results, Including Successful Appeals, Adopted in Closed Session)**

MOTION: Mr. Lyons/Mr. Jones moved to approve the consent calendar.

VOTE: 7-0, motion carried.

Ms. Tuttle left at 1:55 p.m.

22. Adjourn

The Board adjourned at 2:00 p.m.

PUBLIC PRESENT

Bob DeWitt, CELSOC

William R. Hofferer, CLSA

Ms. Gilster, PEGC

Frank Pierce

Michael Jones, North Star Engineering

Katey O'Malley, CELSOC